

By: Bettencourt

S.B. No. 1751

A BILL TO BE ENTITLED

AN ACT

relating to authorizing the Employees Retirement System of Texas and the Teacher Retirement System of Texas to establish defined contribution plans or hybrid retirement plans to provide retirement benefits to certain employees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 802.002, Government Code, is amended by adding Subsection (e) to read as follows:

(e) Notwithstanding any other law, including Subsection (a), an alternative retirement plan established under Chapter 809 is exempt from Sections 802.101, 802.1012, 802.1014, 802.103, 802.104, and 802.202(d). This subsection may not be construed to exempt any plan from Section 802.105 or 802.106(h).

SECTION 2. Subtitle A, Title 8, Government Code, is amended by adding Chapter 809 to read as follows:

CHAPTER 809. AUTHORITY TO ESTABLISH ALTERNATIVE RETIREMENT PLANS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 809.001. DEFINITIONS. In this chapter:

(1) "Alternative retirement plan" means a defined contribution plan or a hybrid retirement plan.

(2) "Board of trustees" means the board of trustees of a retirement system.

(3) "Defined benefit plan" means, as appropriate, the plan that provides benefits to:

1 (A) members of the employee class of the
2 Employees Retirement System of Texas under Subtitle B, Title 8; or

3 (B) members of the Teacher Retirement System of
4 Texas under Subtitle C, Title 8.

5 (4) "Defined contribution plan" has the meaning
6 assigned by Section 802.001.

7 (5) "Hybrid retirement plan" means a retirement plan
8 that combines elements of a defined benefit plan, a defined
9 contribution plan, or an individual retirement savings account.

10 (6) "Qualified plan" means an employee benefit plan
11 qualified under Section 401(a), Internal Revenue Code of 1986 (26
12 U.S.C. Section 401).

13 (7) "Retirement system" means the Employees
14 Retirement System of Texas or the Teacher Retirement System of
15 Texas, as appropriate.

16 Sec. 809.002. APPLICABILITY. This chapter applies only to:

17 (1) the Employees Retirement System of Texas; and

18 (2) the Teacher Retirement System of Texas.

19 Sec. 809.003. CONFLICT OF LAW. To the extent of a conflict
20 between this chapter, including a rule adopted by a retirement
21 system under authority of this chapter, and any other law, this
22 chapter prevails.

23 SUBCHAPTER B. AUTHORITY TO CREATE ALTERNATIVE PLANS

24 Sec. 809.051. CREATION OF ALTERNATIVE PLAN.

25 Notwithstanding any other law, including Subtitles B and C, Title
26 8, and subject to the requirements of Subchapter C, the board of
27 trustees may by rule establish and administer an alternative

1 retirement plan to provide benefits to newly hired employees under
2 that plan instead of under a defined benefit plan.

3 Sec. 809.052. CERTAIN REFERENCES IN LAW TO RETIREMENT
4 SYSTEM MEMBERS. If a retirement system establishes an alternative
5 retirement plan under this chapter, a reference in law to a member
6 of the retirement system includes a participant in the alternative
7 retirement plan unless the reference is expressly defined
8 otherwise.

9 SUBCHAPTER C. ALTERNATIVE PLAN MINIMUM REQUIREMENTS

10 Sec. 809.101. MINIMUM REQUIREMENTS. In establishing an
11 alternative retirement plan under this chapter, a retirement system
12 shall ensure the plan meets the requirements of this subchapter.

13 Sec. 809.102. QUALIFIED PLAN. An alternative retirement
14 plan created under this section must be a qualified plan.

15 Sec. 809.103. PARTICIPATION IN ALTERNATIVE PLAN;
16 RESUMPTION OF SERVICE. (a) In adopting rules to establish an
17 alternative retirement plan under this chapter, the board of
18 trustees shall designate the date by which all newly hired
19 employees shall begin participation in the plan.

20 (b) A person who resumes employment with an employer and who
21 is already a member of the retirement system eligible to
22 participate in a defined benefit plan remains eligible to
23 participate in the defined benefit plan and is not considered a new
24 employee for purposes of required participation in an alternative
25 retirement plan established under this chapter.

26 (c) Notwithstanding any other law, an employee who
27 participates in an alternative retirement plan established under

1 this chapter is not eligible to, and may not participate in, the
2 defined benefit plan administered by the retirement system.

3 Sec. 809.104. EFFECT OF EMPLOYMENT CHANGES. A person
4 participating in an alternative retirement plan continues to
5 participate in the plan when the person changes employment to
6 another position included in the coverage of the retirement system.

7 Sec. 809.105. VESTING OF BENEFITS; TERMINATION OF
8 PARTICIPATION. (a) Benefits in an alternative retirement plan
9 vest in a participant not later than the fifth anniversary of the
10 date the person begins to participate in the plan.

11 (b) A person terminates participation in an alternative
12 retirement plan, without losing any vested benefits, by:

13 (1) death;

14 (2) retirement; or

15 (3) termination of employment in all positions
16 included in the coverage of the retirement system.

17 (c) The benefits of a product purchased under an alternative
18 retirement plan become available under the terms of the annuity but
19 not before the earlier of the date:

20 (1) the member terminates participation as provided by
21 Subsection (b); or

22 (2) the member's age and years of service in a position
23 covered by the plan equal 80.

24 Sec. 809.106. CREDITABLE SERVICE. A person may not
25 establish in the defined benefit plan administered by the
26 retirement system credit for service performed during a period the
27 person was participating in an alternative retirement plan.

1 Sec. 809.107. CONTRIBUTIONS. (a) A participant in an
2 alternative retirement plan shall make contributions to the plan at
3 the same rate that a member of the retirement system participating
4 in a defined benefit plan is required to make for current service,
5 and the state and employers otherwise required to make
6 contributions to a defined benefit plan shall make contributions to
7 the alternative retirement plan for each participant at the same
8 rate as the state and employers are required to contribute for
9 contributing members of the defined benefit plan. Contributions
10 required under this subsection shall be credited to the benefit of
11 the participant.

12 (b) A participant in an alternative retirement plan and the
13 participant's employer shall execute an agreement under which the
14 salary of the participant is reduced by the amount of the
15 contribution required by this section. An agreement under this
16 subsection is irrevocable until the participant terminates
17 participation in the plan under Section 809.105.

18 (c) Participant contributions shall be made in the manner
19 provided by Subchapter F, Chapter 815, or Subchapter E, Chapter
20 825, as applicable.

21 Sec. 809.108. HEALTH BENEFITS AND OTHER COVERAGES. A
22 person who participates or who is eligible to participate in an
23 alternative retirement plan established under this chapter is
24 eligible for health benefits and other coverages under Subtitle H,
25 Title 8, Insurance Code, and Subchapter D, Chapter 22, Education
26 Code, if applicable, to the same extent as a person who is a member
27 or who is eligible to be a member of the retirement system.

1 SECTION 3. Section 830.002(b), Government Code, is amended
2 to read as follows:

3 (b) Participation in the optional retirement program is an
4 alternative to active membership in the retirement system or
5 participation in an alternative retirement plan under Chapter 809,
6 as appropriate.

7 SECTION 4. Sections 830.102(a) and (d), Government Code,
8 are amended to read as follows:

9 (a) A person included in the coverage [~~member~~] of the
10 retirement system who is eligible [~~to participate in the optional~~
11 ~~retirement program~~] may elect to [~~continue as a member of the~~
12 ~~retirement system or to~~] participate in the optional retirement
13 program.

14 (d) An eligible person who does not elect to participate in
15 the optional retirement program is considered to have chosen to
16 continue membership in the retirement system or to participate in
17 an alternative retirement plan established under Chapter 809, as
18 applicable.

19 SECTION 5. Section 830.106, Government Code, is amended to
20 read as follows:

21 Sec. 830.106. ELIGIBILITY FOR RESUMPTION OF MEMBERSHIP. A
22 participant in the optional retirement program is not eligible for
23 participation [~~membership~~] in the retirement system unless the
24 person:

25 (1) terminates employment covered by the optional
26 retirement program; and

27 (2) becomes employed in the public school system or

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1 with a state agency in a position that is not eligible for
2 participation in the optional retirement program.

3 SECTION 6. This Act takes effect September 1, 2017.